

SERVICE DATE – LATE RELEASE OCTOBER 12, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42087

GROOME & ASSOCIATES, INC. AND LEE K. GROOME

v.

GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION

Decided: October 12, 2004

On August 23, 2004, as supplemented on September 27, 2004, Groome & Associates and Lee K. Groome (jointly, Groome) filed a motion to waive the applicable filing fee, and a request for institution of a complaint proceeding, including the establishment of a procedural schedule (August 2004 motion).¹ The August 2004 motion alluded to a “complaint” that Groome had lodged with the Board on May 23, 2001, asserting that the Greenville County Economic Development Corporation (GCEDC) had violated its common carrier obligation² by failing to provide service upon reasonable request (May 2001 submission). The May 2001 submission was not accepted as a formal filing and thus was not docketed by the Board because the Board did not receive a filing fee or a fee waiver request with regard to the matter.³

In its August 2004 motion, Groome requests that the Board accept its May 2001 submission and institute a formal proceeding. Groome maintains that the institution of a formal proceeding before the Board will not prejudice GCEDC because, until recently, there had been a case pending before the Court of Common Pleas for Greenville County, South Carolina seeking a declaratory judgment arising out of GCEDC’s alleged failure to provide rail service to Groome.

¹ The request for waiver of the filing fee is being granted in a separate letter.

² In Greenville County Economic Development Corporation — Acquisition Exemption — South Carolina Central Railroad Company, Inc., Carolina Piedmont Division, STB Finance Docket No. 33752 (STB served June 3, 1999), GCEDC acquired an 11.8-mile rail line between Greenville and Travelers Rest, SC.

³ In letters dated June 1, 2001, and July 31, 2001, Groome and its counsel were informed that the Board could not process the complaint without the submission of the filing fee under 49 CFR 1002.2.

On September 29, 2004, GCEDC requested leave to late-file its motion in opposition to Groome's August 2004 motion, asserting that the Board should reject Groome's complaint. GCEDC's late filing will be accepted because no party will be prejudiced.

The Board will accept Groome's August 2004 motion, which effectively incorporates its May 2001 submission, as a formal complaint, and the Board will institute a formal complaint proceeding. This decision does not resolve questions regarding the appropriate period for which relief may be granted. To ensure that GCEDC is informed of this action, Groome will be required to serve this decision, the August 2004 motion, and the May 2001 submission on GCEDC within 5 days of the service date of this decision.

The parties shall follow the procedural schedule set out in ordering paragraph 3 of this decision.

It is ordered:

1. Groome's August 2004 motion is accepted for filing, and a formal complaint proceeding is instituted.
2. Groome must serve GCEDC with a copy of its August 2004 motion, its May 2001 submission, and this decision within 5 days of its service date.
3. The procedural schedule in this proceeding is as follows:

November 8, 2004	Answer due.
December 1, 2004	End of discovery period.
December 21, 2004	Groome's opening statement due.
January 10, 2005	GCEDC's reply statement due.
January 31, 2005	Groome's rebuttal statement due.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary